

Probate Notes for April 2, 2009

Probate notes are a recommendation as to the outcome of the petition. Unlike tentative rulings, they do not automatically become adopted as the order of the court. If you wish to continue a matter, please contact the civil division at (530) 406-6704. If you have questions, you may contact the probate examiner at (530) 406-6802 between the hours of 2 and 4 p.m.

CASE: Probate Conservatorship of Annette I. Langston
Case No. CV PB 87-18810

It is recommended to approve the court investigator's report.

CASE: Probate Conservatorship of Donald Andrew Sanderson
Case No. CV PC 08-116

It is recommended that the Court find that the petitioners are entitled to a judgment against Edna Stegmann of twice the value of the property that the petitioners have recovered from her under Probate Code section 850, in addition to the return order that the Court has already issued pursuant to Probate Code section 856. (Prob. Code, §§ 850-859; Exhibit 2 to Petitioner's March 9, 2009, supplemental brief.) Probate Code section 859 provides for a judgment of twice the value of property which is recovered pursuant to sections 850-859. Section 859 states that this double-damages remedy is in addition to the remedies available in law to the conservator. Reading sections 856 and 859 together, if the Court finds that a person has in bad faith wrongfully taken property belonging to the estate of a conservatee, the court shall order the person who took the property to return title to and possession of the property to the estate and the court shall make that person liable for twice the value of the property recovered. Section 859 does not give the Court discretion to not award double damages when there is a finding that a person has in bad faith wrongfully taken property belonging to the estate of a conservatee.

It is recommended that the Court find that the petitioners are entitled to a post-trial hearing for the purpose of establishing the amount of double damages to which the petitioners are entitled. (*Estate of Irma E. Young v. Parker* (2008) 160 Cal.App.4th 62.) The parties and the Court should select a hearing date.

Petitioners should prepare a proposed order.

CASE: Estate of James Marco Daniels
Case No. CV PB 08-191

It is recommended to approve the waiver of account and first and final account and report of status of administration and to grant the petition for settlement thereof, for allowance of statutory attorney's compensation, and for final distribution. Petitioner should submit a proposed order.